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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,920	10/06/2000	Edward Archibald	HWT-00-001	3041
7590	05/19/2006		EXAMINER	
Timothy A Brisson Sierra Patent Group Ltd PO Box 6149 Stateline, NV 89449				SAIN, GAUTAM
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/680,920	ARCHIBALD ET AL.
Examiner	Art Unit	
Gautam Sain	2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 February 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5,7-13,15-21 and 23-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,7-13,15-21 and 23-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

- 1) This is a Final rejection in response to Applicant's Amendments/Remarks filed on 2/17/06.
- 2) Pending claims: 1-5,7-13,15-21 and 23-27.

### ***Claim Rejections - 35 USC § 103***

- 3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3-1) Claims 1, 2, 5, 8-10, 13, 16-18, 21 and 24- 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catona (US 6288319, filed Dec 2, 1999), in view of Ledoux et al (US 6757573, filed Nov 1999), further in view of Hsu (US 586006, issued Jan 1999, see IDS).**

Regarding independent claims 1, 9, 17 and 25, Catona teaches choosing ... client node (ie., over a computer network ... selecting a pre-recorded song from a database)(col 2, lines 10-20)(additionally, examiner interprets soundscapes to being pre-recorded songs/noise or aesthetically pleasing sounds to the listener).

Catona teaches recording ... a message (ie., recording a vocal track on the client computer)(col 2, lines 15-20).

Catona teaches mixing ... manner (ie., mixing the vocal track with pre-recorded song ...)(col 2, lines 15-20).

Catona does not expressly teach allowing a user to create multi-part soundscape over which a personalized greeting may be recorded and the other amended limitations, but Ledoux does suggest these limitations (ie., media graph enables a sound designer to associate sound files with various nodes using a tool for designing and implementing interactive soundscapes based on existing audio files, such as waveform audio files, MIDI files, or audio streams (col 1, line 53 – col 2, line 7)(additionally, the sink nodes allow for audio data to be played in different sounds simultaneously and in rapid succession and allow for variances in volume of the channels, creating a fade in/out sound; Examiner broadly interprets the claim language “front punctuating sound, a background, and a back punctuating sound,” as equivalent as these teachings of Ledoux).

Catona in view of Ledoux does not expressly teach the amendments dealing with raising and lowering of the sound levels of the front punctuating sound, the message and the back punctuating sound during different time periods (as summarized by the Applicant on page 11 of Remarks, Amendments to Claims section). However, Hsu does suggest the amendments. For example, Hsu discloses a method for automatically providing background music for a card message recording system (Title), where the mixer reads the message and the background music at proper time intervals such that when the volume of the message is increased, the volume of the musical signal fades and vice versa, resulting in mixed signals played out by the speaker (Hsu, col 2, lines 2-7) and when the volume of speech signals is increased, the volume of electric musical signals fades (col 1, lines 59-61). Specifically, during the procedural of signal

combination at the mixer, the volume of the background music fades gradually while the volume of the message is increasing and when the message is finished, the volume of the background music gradually increases and produces the effect of background music for the message (col 3, lines 7-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Catona to include a tool for designing and implementing interactive soundscapes based on existing audio files and associated sound files as taught by Ledoux, providing the benefit of enabling a sound designer to work independently of the developer of a media application for audio and no-audio portions of a media application (Ledoux, col 1, lines 45-50), further to include a method for automatically providing background music for a card message recording system where the mixer reads the message and the background music at proper time intervals such that when volume of the message increases, the message of the musical signal fades and vice versa as taught by Hsu, providing the benefit of a low-cost, easy-to-implement card message recording system which can automatically provide background music and then mix the background music with the speech message for the user (Hsu, col 1, lines 44-47).

**Regarding claims 2, 10, 18 and 26,** Catona teaches Internet (col 1, lines 45-50).

**Regarding claims 5, 13, 21 and 27,** Cantona teaches act of interleaving ...

soundscape (ie., mixer combines the pre-recorded song and the custom audio track)(col 2, lines 66-67).

**Regarding claims 8, 16 and 24,** Caton in view of Ledoux does not expressly teach, but Hsu teaches act of mixing said ... recorded message (ie., background music fades in volume)(col 3, line 9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Catona in view of Ledoux to include background music that fades in volume as taught by Hsu, providing the benefit of a card message recording system which can automatically provide background music and provide a low-cost, easy-to-implement message recording system which can automatically provide background music and then mix the background music with the speech message for the user (Hsu, col 1, lines 40-50).

**3-2) Claims 3, 4, 11, 12, 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Catona (as cited above) and Ledoux (as cited above), in view of Hsu (as cited above).**

**Regarding claims 3, 11 and 19,** Cantona in view of Ledous does not expressly teach, but Hsu teaches act of ... message (ie., when the message is finished, the background music increases, thus reducing the silence after the completion of the message)(col 3, lines 1-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Cantona in view of Ledoux to include reducing the silence after the completion of the message by increasing the music as taught by Hsu, providing the benefit of automatically providing background for a card message recording system (Abstract section).

**Regarding claims 4, 12 and 20,** Catona does not expressly teach, but Hsu teaches normalizing said recording message (ie., mixer mixes the background music with the speech signals by controlling their volume ... music fades gradually (col 3, lines 25-31).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Catona in view of Ledoux to include a mixer that mixes the background music with speech signals by controlling their volume as music fades gradually as taught by Hsu, providing the benefit of automatically providing background for a card message recording system (Abstract section).

**3-3) Claims 7, 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catona (as cited above), Ledoux (as cited above) and Hsu (as cited above), in view of Dawson (US 6252588, filed Jun 16, 1998).**

**Regarding claims 7, 15 and 23,** Catona in view of Ledoux and Hsu does not expressly teach, but Dawson teaches determining ... message (ie., running tabulations of the length of recording)(col 14, lines 11-12).

Catona teaches mixing ... punctuating ... , mixing ... punctuating sound ..., mixing ... background ..., mixing ... recorded message ..., mixing ... background punctuating ... level (ie., prerecorded songs and custom audio track, a karaoke-style implementation ... user sings into microphone in recorder. Mixer combines the pre-recorded song and custom audio track into a mixed track.)(col 2, lines 50-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Catona in view of Ledoux and Hsu to include running tabulations of the length of recording as taught by Dawson, providing the benefit of an audio visual e-

mail system of the invention that reduces the complexity of sending and receiving audio visual e-mail message to a level that allows a user to send and receive audio visual e-mail with a minimum of inconvenience (Dawson, Abstract section).

***Response to Arguments***

Applicant's arguments filed 2/7/06 have been fully considered but they are not persuasive. Regarding Claim 1, Applicant's argues **that the references Catona and Ledoux do not teach the amendments that deal with the raising and lowering of the sound levels of the front punctuating sound, the message and the back punctuating sound during different time periods** (see Remarks, pages12 – 14).

The Examiner asserts that the Hsu reference suggests the amended limitations regarding mixing. Specifically, Hsu discloses a method for automatically providing background music for a card message recording system (Title), where the mixer reads the message and the background music at proper time intervals such that when the volume of the message is increased, the volume of the musical signal fades and vice versa, resulting in mixed signals played out by the speaker (Hsu, col 2, lines 2-7) and when the volume of speech signals is increased, the volume of electric musical signals fades (col 1, lines 59-61). Additionally, during the procedural of signal combination at the mixer, the volume of the background music fades gradually while the volume of the message is increasing and when the message is finished, the volume of the background music gradually increases and produces the effect of background music for the message (col 3, lines 7-13).

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam Sain whose telephone number is 571-272-4096. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GS 5/8/06  
GS

*HH*  
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